

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOLIN RURAL ELECTRIC COOPERATIVE
CORPORATION

COMPLAINANT

v.

KENTUCKY UTILITIES COMPANY

DEFENDANT

)
)
)
)
)
) CASE NO. 95-074
)
)
)
)

O R D E R

On February 23, 1995, Nolin Rural Electric Cooperative Corporation ("Nolin") filed an application, pursuant to KRS 278.018(1), requesting the Commission to resolve a territorial boundary dispute with Kentucky Utilities Company ("KU") regarding service to a new electric consuming facility to be constructed on Nall Lane in Elizabethtown, Kentucky. The new facility, a Target department store, will be located in the adjacent service territories of Nolin and KU.

Nolin alleges that its existing distribution facilities are in closer proximity to the new facility than KU's, and by application of the criteria set forth in KRS 278.017(3), Nolin should be authorized to serve the new facility. The Commission deemed the application to be a complaint and directed KU to file a response. In its answer, KU contested Nolin's representation of the

territorial boundary line and asserted that it was entitled to serve the new customer.

An informal conference was held on April 24, 1995 in Elizabethtown, Kentucky. As a result of discussions initiated at the conference, the parties negotiated a Settlement Agreement dated May 11, 1995, attached hereto and incorporated herein as Appendix A.

The Settlement Agreement provides for a modification of the electric territorial boundary so that the new Target store lies exclusively within KU's service territory. The parties have also agreed to a minor realignment of the territorial boundary north of the new Target store in an effort to avoid similar disputes of this type. In addition, KU will allow Nolin to "overbuild" KU's existing lines and facilities near the new Target store, thereby ensuring Nolin's ability to serve existing and future loads within its territory.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is reasonable, comports with the regulatory principles set forth in KRS 278.016 to 278.018, and should be accepted as being in the public interest. Within 30 days Nolin and KU should jointly file a revised territorial map reflecting the agreed changes and bearing the signature of each party.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement tendered by Nolin and KU be and it hereby is accepted as a final resolution of the issues raised in this case.

2. Within 30 days of the date of this Order, Nolin and KU shall jointly file a revised territorial map reflecting the agreed to boundary changes and bearing their respective signatures.

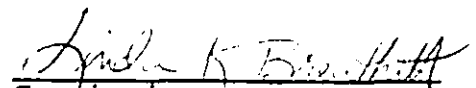
3. This case be and it hereby is dismissed with prejudice.

Done at Frankfort, Kentucky, this 11th day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 95-074 DATED July 11, 1995.

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of May 11, 1995, by and between Nolin Rural Electric Cooperative Corporation ("Nolin"), a Kentucky cooperative corporation and Kentucky Utilities Company ("KU"), a Kentucky corporation.

R E C I T A L S :

WHEREAS, Nolin and KU are both retail electric suppliers engaged in the business thereof, having adjacent service territories, certified by the Kentucky Public Service Commission pursuant to the provisions of KRS 278.016, et seq., (the Certified Territories Act);

WHEREAS, a dispute exists between Nolin and KU respecting the right to provide service to certain customers on property located on or near the territorial boundary which separates their respective service territories, and such dispute is the subject of Kentucky Public Service Commission Case No. 95-074 (In the Matter of: Nolin Rural Electric Cooperative Corporation v. Kentucky Utilities Company);

WHEREAS, Nolin and KU have an additional matter for resolution concerning the terms and costs of proposed overbuilding by Nolin of existing KU lines and facilities in order to enable Nolin to provide service to certain customers; and

WHEREAS, Nolin and KU recognize and agree that settlement of these matters is in the best interest, not only of themselves, but of their respective customers.

NOW, THEREFORE, for the mutual covenants set out herein, the parties hereto agree as follows:

1. Settlement and Dismissal of Case No. 95-074. The parties agree to settle the matters set out herein, and to jointly petition the Public Service Commission for approval of this Settlement Agreement in its entirety, modification of the territorial boundary separating their respective service territories, and for dismissal with prejudice of Case No. 95-074, all upon the terms and conditions set out in this Settlement Agreement.

2. Modification of Territorial Boundary. The parties hereto agree to the modification of the territorial boundary separating their respective service territories in accordance with the maps attached as Exhibit I hereto. The parties further agree to mutually take whatever action may be necessary in order to file such revised territorial maps with the Public Service Commission and to seek the Public Service Commission's approval of such allocation of territories and customers.

3. Overbuilding of KU's Existing Lines and Facilities. KU will allow Nolin to overbuild its existing lines and facilities to the extent shown on the map attached hereto as Exhibit II. Such construction shall be upon the terms and conditions, including payment from Nolin to KU, reflected in Exhibit III. The parties acknowledge and agree that the fee charged by KU to Nolin as reflected in Exhibit III represents a concession by KU.

4. No Precedential Effect. Nolin and KU agree that the provisions of this Settlement Agreement are intended to address only the matters, construction, or service rights specifically addressed herein. This Settlement Agreement and the provisions

hereof shall have no precedential or similar effect upon any matters or service rights not addressed herein, involving Nolin and KU, or either of them, whether now existing or hereafter arising.

5. Approval by the Public Service Commission; Non-Severability of Provisions. This Settlement Agreement, and the parties' obligations hereunder, are expressly contingent upon approval by the Public Service Commission. The parties further agree that the provisions of this Settlement Agreement are non-severable, and that if the Public Service Commission should decline to approve this Settlement Agreement, or should approve only a portion hereof, then either Nolin or KU shall have the right to withdraw from this Settlement Agreement and this agreement shall then become void and of no effect whatsoever.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the date written above.

NOLIN RURAL ELECTRIC
COOPERATIVE CORPORATION

KENTUCKY UTILITIES COMPANY

By: Michael T. Miller

By: Robert M. Hurd

Title: GENERAL MANAGER

Title: Vice President